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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,350	07/11/2001	Eric Lawrence Barsness	ROC920010125US1	9578
46797 7590 07/25/2007 IBM CORPORATION, INTELLECTUAL PROPERTY LAW DEPT 917, BLDG. 006-1 3605 HIGHWAY 52 NORTH ROCHESTER, MN 55901-7829			EXAMINER VU, NGOC K	
			ART UNIT 2623	PAPER NUMBER
			MAIL DATE 07/25/2007	DELIVERY MODE PAPER

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Technology Center 2600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/903,350
Filing Date: July 11, 2001
Appellant(s): BARSNESS ET AL.

Randol W. Read
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 8, 2007 appealing from the Office action
mailed December 19, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The amendment after final rejection filed on 11/17/2006 has been entered.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 3, 7-11, 24 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Berezowski et al. (US 20020056087 A1).

Regarding claim 3, Berezowski discloses a method for providing viewership information (audience information) to a plurality of television viewers, comprising:

collecting viewership data of a plurality of viewers, wherein the viewership data (audience information) comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (i.e., time slots) for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval (i.e., percentage represents a number of users watched a particular program during a particular time slot – see 0038-0040, 0054 and 0074);

processing the viewership data to provide on-screen interface information (i.e., providing audience information in suitable format for displaying – see 0043, 0040); and

transmitting, to a plurality of end-user receivers, the on-screen interface information and data for an electronic program guide, wherein the on-screen interface

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information is viewable in one graphical representation (605 – see figure 6) of the plurality of counts displayed along with each respective program entry displayed by the electronic program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG”) on displays connected to the plurality of end-user receivers (see 0038-0040; 0074, 0079, 0093 and figures 6-7) wherein transmitting data representing a growth rate (e.g., transmitting audience information representing information such as audience size for a particular program. It is noted that audience size equates to “growth rate” because it represents a number of users or how many users are watching the particular program) of viewers for a particular program (see 0054-0056, 0072, 0073 and figures 5-6).

Regarding claim 7, Berezowski discloses a method for providing viewership information (audience information) to a plurality of television viewers, comprising:

collecting viewership data of a plurality of viewers, wherein the viewership data (audience information) comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (i.e., time slots) for each program, and wherein each count represents a number of viewers of a respective program during a respective time interval (i.e., percentage represents a number of users watched a particular program during a particular time slot – see 0038-0040, 0054 and 0074);

processing the viewership data to provide on-screen interface information (i.e., providing audience information in suitable format for displaying – see 0043, 0040); and

transmitting, to a plurality of end-user receivers, the on-screen interface information and data for an electronic program guide, wherein the on-screen interface information is viewable in one graphical representation (605 – see figure 6) of the plurality of counts displayed along with each respective program entry displayed by the electronic program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG”) on displays connected to

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the plurality of end-user receivers (see 0038-0040; 0074, 0079, 0093 and figures 6-7), wherein transmitting the on-screen interface information comprise transmitting group information identifying group members of the defined group (e.g., number of viewers in a defined zip code watching or recording a program - see figure 16, 0089).

Regarding claim 8, Berezowski discloses providing group information indicating how many members of the defined group are watching a program (i.e., 30% of viewers in the defined zip code watching or recording I love Lucy program - see figure 16).

Regarding claim 9, Berezowski discloses providing group information indicating a group rating for a program (i.e., audience information illustrated in pie chart indicating a group of viewers in a specific area watching I love Lucy program - see figure 16 and 0073).

Regarding claim 10, Berezowski discloses providing group information (identifying information, i.e., user name – see 0089, 0091) indicating which members of the defined group are watching a program.

Regarding claim 11, Berezowski teaches that the members are identified by extracting member identification information from the viewership data; and referencing a database (within 150) containing group information (see 0053, 0089).

Regarding claim 24, Berezowski discloses a signal processing unit (200 – see figure 3) for processing television signals, comprising:

- a first connector (within 260 – figure 3) for receiving a video signal (250) transmitted from a remote provider (distribution facility);

- a second connector (within 260 – see figure 3) for receiving a viewership signal containing viewership data (audience information) collected from a plurality of viewers, wherein the viewership data comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (time slots) for each program, and wherein each

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count represents a number of viewers of a respective program during a respective time interval (percentage represents a number of users watched a particular program during a particular time slot – see 0040, 0052, 0054 and 0074);

a memory (340 – see figure 3) containing an on-screen guide interface formatted with the viewership data (see 0064); and

a processor (within 260 – see figure 3) configured to format the on-screen guide interface with the viewership data (audience information is processed to be displayed with flip displays, browse displays, program listings or any other suitable display – see 0072), wherein the viewership data is formatted as one graphical (605 – see figure 6) representation of the plurality of counts displayed along with each respective program entry displayed with an electronic program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG” - see 0038-0040, 0058, 0074, 0079, 0093 and figures 6-7), wherein the processor is configured to format an on-screen guide interface with viewership indicators (550, 605 – see figures 5-6) using the viewership data, wherein the viewership indicators (550, 605) indicate a viewership growth rate (e.g., audience size) in at least one program being transmitted in the video signal (audience size equates to “growth rate” because it represents a number of users or how many users are watching the particular program) of viewers for a particular program (see 0054-0056, 0072, 0073 and figures 5-6).

Regarding claim 27, Berezowski discloses an on-screen program guide information provider system, comprising:

a first network (120) connection with a plurality of devices (155) configured to collect viewership data (audience information) of a plurality of television viewers, wherein the viewership data comprises a plurality of counts (i.e., percentages or numbers of users) corresponding to a plurality of time intervals (time slots) for each program, and wherein each

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count represents a number of viewers of a respective program during a respective time interval (i.e., percentage represents a number of users watched a particular program during a particular time slot – see 0036, 0038-0040, 0054 and 0074) ;

a second network (180) connection with a plurality of end-user receivers (200) (see 0041); and

a processor (170) configured to:

(i) process the viewership data to provide on-screen guide formatting

information (i.e., providing audience information in suitable format for displaying – see 0043, 0040);

(ii) transmit, via the second network (180) connection, the on-screen guide formatting information to the plurality of end-user receivers, wherein the onscreen guide formatting information is used by the end-user receivers to output viewership indicators to displays connected to the plurality of end-user receivers, wherein each viewership indicator comprise one graphical representation of the plurality of counts (605 – see figure 6) displayed along with each respect program entry displayed with an electronic program guide (i.e., “Ch. 2 CBS”, “Mad About You”, “8:00-8:30 pm”, “TV PG” - see 0038-0040; 0074, 0079, 0093 and figures 6-7), wherein the on-screen guide formatting information comprises a growth rate of viewers for a particular program (audience size equates to “growth rate” because it represents a number of users or how many users are watching the particular program) of viewers for a particular program (see 0054-0056, 0072, 0073 and figures 5-6).

(10) Response to Argument

With respect to claims 3, 24 and 27, appellant argues that Berezowski does not teach or suggest the claimed “growth rate”. This argument is not persuasive based on the following reasons.

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The system of Berezowski provides users with audience information for programs to indicate the popularity of the media. The audience information is accumulated at distribution facility or main facility. Distribution facility or main facility then distributes the accumulated audience information by transmitting the accumulated audience information to the users. (See 0055, 0101 and figure 17). The audience information represents the size of audience for the program. For instance, figure 6 shows graphic 605 presenting a number of viewers watching program "Mad About You" compared with the other programs at a particular time slot. (See 0074 and figure 6). The system of Berezowski also provides the audience information for upcoming programs, wherein the audience information for upcoming programs may be based on the number of viewers that selected to view additional information about the program, the number of viewers that purchased the program in advance, the number of viewers that scheduled reminders, or the number of viewers that scheduled to record the program...etc. (See 0093). From this view, the users can judge the change in size of audience by checking the audience information of a program at the present time compared with the audience information of the same program in the past. For instant, at 6:30PM the users view the audience information of an upcoming program, e.g., "60 Minutes", which will be aired on channel "X" at time "Y". (See figure 9, 0082-0083). When the program is aired, the users may check the audience information of the program "60 Minutes" to see the current audience information. That is, the current audience information reflects the increasing/decreasing number of viewers or a change in size of the audience compared with the previous audience information of the same program.

Thus, the claimed feature "growth rate" is met by "audience information" in the Berezowski reference.

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With respect to claim 7, appellant asserts that Berezowski fails to teach "on-screen interface information comprises transmitting group information identifying group members of the defined group". Examiner respectfully disagrees.

The system of Berezowski further allows the user to select a group of users 1025 for which to display audience information as shown in FIG 10. The system provides an on-screen interface presenting audience information if the user selects audience information for viewers in the same zip code with the user watching the program "I Love Lucy" as shown in FIG 16. The user may be asked to enter location information, such as zip code, or the user may be asked to select national data or regional data to view the audience information for viewers in the defined zip code, for all viewers across the nation, or for all viewers in a specific market/metro area, respectively. (See 0089 and FIG 16) This indicates that the system provides on-screen interface comprising "group information" identifying viewers of the group by zip code, national data, or regional data. Thus, Berezowski teaches identification of individual members of the group. Accordingly, the claimed feature "on-screen interface information comprises transmitting group information identifying group members of the defined group" is met by the on screen interface comprising group information identifying the viewers of the defined group by zip code, national data, or regional data in the Berezowski reference.

Appellant points out that "group information may identify group members by name, initials or other descriptors" in light of the specification. However, this feature is not specifically claimed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,




Ngoc Vu

Andrew Koenig



ANDREW Y. KOENIG
PRIMARY PATENT EXAMINER
Acting SPE

Vivek Srivastava



VIVEK SRIVASTAVA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Conferees:

Ngoc Vu
Andrew Koenig
Vivek Srivastava